

### **REMARKS**

Reconsideration of this application is requested.

With entry of the present amendment, the pending claims are claims 1-9 and 11-14. Claim 10 has been canceled.

The claims have been amended to obviate the basis for the Examiner's objections to claims 4 and 14 and the Section 112, 2nd ¶ rejection of claims 2-4 and 13-14. The amendments to the claims, particularly to main claim 1, also emphasize patentable differences between the applicant's invention and the prior art.

In particular, claims 4 and 14, as amended, clearly limit the scope of the claims from which they depend. Hence the Examiner's objection to these claims should be withdrawn. Actually the applicant considers that claims 4 and 14 as previously presented also limited the scope of claims 3 and 13 so that the objection to claims 4 and 14 was not warranted. In any case, however, the Examiner's objection has been mooted by the present claim amendments.

With respect to the Section 112 rejection, the Examiner will note that the substituents for R are now defined in Markush form based on the applicant's disclosure at page 2, lines 1-15 (see claims 2 and 13). Additionally, claim 2 has been amended to specify "hydroxybenzotriazole", as per page 1, line 27 of the applicant's specification, in place of "benzotriazole derivatives".

Furthermore, the reference to "saccharin or Saccharin derivatives" in claim 2 has been replaced by the chemical formula of claim 3 with p and X defined as in claim 3. Reference to salts of the compounds of formula 1 with organic base has also been added to claim 2 based on the applicant's disclosure at page 2, lines 21-22.

The reference to "saccharin" in claim 4 has been replaced by reference to the compound of formula (1) with X being O and p being 0, which equates to saccharin.

The claims, amended as discussed above, are thought to obviate the basis for the Examiner's Section 112, 2nd ¶ rejection of claims 2-4 and 13-14, the substituents for R now being specified and the reference to "saccharin derivative" appropriately replaced. As for the other changes in the claims, the Examiner will note that claim 1 has been amended to specify defined conditions for swelling. Support for this addition to the claim is found in the application as filed at page 3, lines 27-38, and in claim 10, the latter being canceled as redundant.

Claim 3 has been amended to avoid redundancy in view of the amendments made to claim 2 and claim 13 has been amended to define the activator as a salt

formed between an organic base and a compound of formula 1 as defined in amended claim 2. Reference to "acetonitrile" as the solvent for swelling the support material has been deleted from claim 13 (and claim 11) as this material is a poor solvent for swelling supports.

Claim 14 has been amended to conform with the amendments made to claim 13.

The Examiner's indication that claims 3 and 13 would be allowable if amended to overcome the Section 112 rejection has been noted. Accordingly, with the indicated amendments to claims 3 and 13, these claims should be allowable. Presumably the Examiner is also satisfied that claim 4, which depends from claim 3, defines subject matter that is patentable over the cited art as this claim has not been rejected on the art.

The Examiner is requested to reconsider the Section 102(b) rejection of claims 1-2 and 5-12 as anticipated by Eleuteri et al. The reference does not disclose the applicant's invention, particularly as defined in the claims, as amended.


More specifically, it is noted that Eleuteri et al. disclose a wholly conventional process for the synthesis of oligonucleotides in an automated column synthesizer. The supports used are either Controlled Pore Glass, which is non-swellable, or rigid polystyrene Primer Support, which again is non-swellable. Accordingly, Eleuteri does not disclose a process having the features required by the claims of the present application, particularly as amended. With conventional synthesizers such as those employed by Eleuteri, swelling of the support is actively discouraged, because swelling would actually cause the support material to expand beyond the column reactor employed. This could potentially cause loss of synthetic material and or blockages and damage to the reactor employed. Accordingly, there is no teaching in Eleuteri et al. that would motivate the skilled person to consider employing the conditions of the applicant's claims, particularly as amended. It is therefore submitted that the claims of the present application are novel and non-obvious over Eleuteri. Accordingly, withdrawal of the Section 102(b) rejection is requested.

The applicant notes that the Examiner has not made a direct reference to U.S. Patent 6,140,493 ("493"), cited in the applicant's PTO-1449, although the reference is "initialled" which shows that the Examiner has considered this reference, and deemed it not material. The applicant agrees that the '493 reference does not disclose or suggest the applicant's invention as defined in the claims herein. However, for the sake of completeness, the applicant notes that the passage in the '493 patent expressly referred to in the International Search Report (Example 3)

actually discloses the use of a support which is arguably "swellable" in nature, although no direct information is provided which makes this absolutely certain. However, what is clear is that the method disclosed in '493 employs conditions which would not cause swelling as required by the amended claims of the present application. The process employs acetonitrile as a solvent, and acetonitrile is known to be poor at swelling the type of support employed in '493 (or at least swelling similar supports which are known to be swellable). '493 therefore contains no teaching which would motivate the person skilled in the art to contemplate the process of the present invention.

For the reasons noted, the applicant submits that all of his claims, as amended, define subject matter which is new and unobvious over Eleuteri and the other art of record.

Respectfully submitted,  
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